

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 8th day of July, two thousand twenty-two.

Before: Dennis Jacobs,
Pierre N. Leval,
Michael H. Park
Circuit Judges.

In re Payment Card Interchange Fee and
Merchant Discount Antitrust Litigation

ORDER

Docket Nos. 20-339(L);
20-340(CON), 20-341(CON),
20-342(CON), 20-343(CON),
20-344(CON)

The district court intends to appoint a special master to decide which, as between the integrated oil companies and their branded service stations, shall be deemed to have “accepted” payment cards, and thus is within the certified settlement class. In order to obviate any complications regarding appellate jurisdiction that might otherwise arise from this unresolved issue, we remand pursuant to the procedure set out in United States v. Jacobson, 15 F.3d 19 (2d Cir. 1994), for the district court to consider whether, in the event the court’s disposition of the dispute between the service stations and oil companies is deemed not a final judgment, there is no just reason for delay in the appeal of all other issues. If the court so concludes, it should provide a reasoned, even if brief, explanation of its conclusion and certify that the judgment previously entered and appealed from should be considered a partial final judgment in accordance with Rule 54(b) of the Federal Rules of Civil

Procedure. The district court should advise us of its response within 30 days, and we will resume consideration of this appeal.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court

The image shows a handwritten signature in black ink that reads "Catherine O'Hagan Wolfe". The signature is written over a circular official seal. The seal has a red outer ring with the words "UNITED STATES" at the top and "COURT OF APPEALS" at the bottom. Inside the ring, the words "SECOND CIRCUIT" are written in blue. There are two small blue stars on either side of the text "SECOND CIRCUIT".

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

This block contains a duplicate of the signature and seal seen in the first block. It features the same handwritten signature "Catherine O'Hagan Wolfe" over the same official seal of the United States Court of Appeals, Second Circuit.

CERTIFIED COPY ISSUED ON 07-08-2022